DOCUMENT #4989
ADOPTED 12/17/87

SETTLEMENT AGREEMENT
AND
PARKING SPACE AGREEMENT

This Settlement Agreement and Parking Space Agreement made this ____ day of _____, 1987 by and among Richard H. Rubin and Myrna Putziger as they are trustees of Government Center Garage Realty Trust under declaration of trust dated November 1, 1983, recorded with Suffolk Registry of Deeds at Book 10615, Page 65 (hereinafter referred to as "the Trustees"); S. Lawrence Schlager and Kidder Peabody Realty Corp., as they are general partners of Government Center Developers Company (hereinafter referred to as "15"); S. Lawrence Schlager, Judith P. Schlager and Merton R. Alperin as they are trustees of the Samuel W. Poorvu Family Trust, and S. Lawrence Schlager and Judith P. Schlager individually (hereinafter all collectively referred to as "25") and Judith P. Schlager and S. Lawrence Schlager, as they are general partners of 25 New Chardon Street Limited Partnership, (hereinafter referred to as "Limited Partnership").

WHEREAS, the Trustees have purchased from the City of Boston the Government Center Garage, so-called (hereinafter the "Garage"), located within the Government Center Urban Renewal Area in the City of Boston; and

WHEREAS, pursuant to the terms of such purchase the Trustees intend to construct an addition to the said Garage consisting primarily of space to be devoted to office uses, all as more particularly described in a Sale and Construction Agreement

between the Trustees, the City of Boston and the Boston Redevelopment Authority dated December 21, 1983, recorded with the Suffolk Registry of Deeds at Book 10700, Page 87 (the "Sale and Construction Agreement"); and

WHEREAS, the Trustees have entered into a long term lease for the operation of said Garage with Kinney System of Sudbury St., Inc. (the "lessee-operator") dated as of November 1, 1983, notice of which lease is recorded with Suffolk Registry of Deeds at Book 10700, Page 177 (the "Garage Lease"); and

WHEREAS, 15 was the owner of an office building located at 15 New Chardon Street within the said Urban Renewal Area of the City of Boston; and

WHEREAS, 25 is the owner of an office building located at 25 New Chardon Street within the said Urban Renewal Area of the City of Boston; and

WHEREAS, 15 and 25 (together with another) have brought a civil action against the Trustees and others in the Land Court Division of the Trial Court of the Commonwealth (S. Lawrence Schlager, et alii v. Boston Redevelopment Authority, et alii, Docket No. 112416) seeking to prevent the construction by the Trustees of the proposed addition to the said garage; and

WHEREAS, the said court entered a judgment for the defendants (including the Trustees) in said action on June 30, 1986; and

WHEREAS, 15 and 25, as plaintiffs in said action, have filed a notice of appeal to the Appeals Court of the Commonwealth from said judgment; and

WHEREAS, the parties desire to settle their differences and terminate the litigation referred to above;

NOW THEREFORE, the parties agree as follows:

1. The Trustees agree to make available for the use of the Limited Partnership, fifteen (15) unassigned automobile parking spaces (hereinafter "spaces"), or such lesser number as the Limited Partnership may from time to time designate in accordance with this Agreement, within the Garage on the terms and in the manner hereinafter set forth. The Limited Partnership may from time to time reduce, but not increase, the number of spaces made available for use hereunder for any ensuing month by written notice to the Trustees and the lessee-operator given on or before the 15th day of any month, such notice to be effective as of the first day of the following month.

2. The Limited Partnership shall be entitled for the term of this Agreement to fifteen such unassigned spaces either for its use, for that of its tenants or business invitees, provided that

(1) The Limited Partnership shall not be permitted to request or accept any profit, fee, premium or excess charge for the use of any such space or spaces above the amounts charged to them by the lessee-operator of the Garage, and (2) any such use is lawful and complies with regulations established from time to time for the operation of the Garage by the said lessee-operator or with any regulations or restrictions now or hereafter imposed upon the operation of the Garage by any governmental authority having jurisdiction.

3. A number of parking spaces equal to the number allocated to the Limited Partnership shall be reserved for the use of it; but not withstanding such reservation, no specific, identified parking spaces shall be set aside for such purposes.

4. The parking spaces rented hereunder shall be available to the Limited Partnership during the regular operating hours of the Garage during which it is open for the use of the general public. The Limited Partnership shall pay the lessee-operator of the Garage five days prior to the first day of each month during the term hereof for the use of the spaces hereby reserved at the prevailing rates charged by the lessee-operator to the general public, on a monthly basis (or otherwise), provided that the Limited Partnership shall pay for the use of such spaces at the then current rate for monthly parking or the most advantageous rate basis as is offered by the lessee-operator from time to time

to the general public. Nothing herein shall be construed to require the establishment by the lessee-operator of any specific periodic rate or method of charging for the use of the spaces reserved hereunder.

5. The method of identifying those eligible to use the parking spaces reserved hereunder, of billing the Limited Partnership for such use, and of administering the implementation of this Agreement, shall be determined in the discretion of the lessee-operator of the Garage in conformity with its usual business practices and with the intent of this Agreement, the Limited Partnership agreeing by its monthly payments to abide by the business practices used by the lessee-operator. Without limiting the generality of the foregoing, the continuation of the rights of the Limited Partnership hereunder with respect to each space reserved hereunder shall be conditioned upon payment by it of the amounts billed therefor by the lessee-operator in accordance with such usual business practices.

6. All of the rights of the Limited Partnership under this Agreement, including, without limitation, the right to the use of the parking spaces reserved to them hereunder, shall not commence or otherwise come into existence unless and until the later to occur of (i) commencement of construction of such office addition by the Trustees; or (ii) the Trustees having obtained, from each and every relevant public authority or governmental body, each and every permission, license or approval necessary for the construction of the addition to the said Garage, including,

without limitation, the permissions, licenses and approvals recited in the Sale and Construction Agreement, and those further such permissions and approvals set forth on Exhibit 1 attached hereto and (1) any time period within which to file or otherwise institute any appeal, opposition or challenge from or to the granting of any such permission, license or approval has expired and no such appeal, opposition or challenge has been filed, or (2) if any such appeal, opposition or challenge has been filed, the same has been finally determined favorably to the Trustees and any hindrance to the commencement or completion of the said addition has been removed; or (iii) the approval of this Agreement and its terms by the Boston Redevelopment Authority. Without limiting the generality of the foregoing, commencement of construction by the Trustees of any portion of such addition or any other improvements defined in the Sale and Construction Agreement prior to the receipt of all such permissions, licenses and approvals, or the expiration of such appeal periods or favorable disposition of any such appeal shall not accelerate the commencement or existence of rights of the Limited Partnership hereunder nor be construed as a satisfaction of the pre-conditions set forth herein.

7. This Agreement shall terminate on May 25, 2004.

8. The lessee-operator has, by the signature of its duly authorized officer, assented to the terms of this Agreement and agrees that the provisions hereof concerning the spaces reserved for the Limited Partnership shall be binding upon lessee-operator

with the same effect as if such provisions had been fully set forth in the Garage Lease, subject to the obligations set forth herein for payment, notice and adherence by the Limited Partnership to regulations for the Garage.

9. Simultaneously with the execution and delivery of this Agreement, the parties, together with the other parties to the litigation referred to above, have executed and delivered to one another a stipulation of dismissal with prejudice of the action and of the pending appeal and mutual releases, and the parties agree that they have thereby relinquished and released all claims against one another except those claims arising under the terms of this Agreement. 15 and 25 and the Limited Partnership further agree that they will not, directly or indirectly, participate in any appeal, opposition or challenge to the granting of any permission, license or approval necessary for the construction of the addition to said Garage and that they shall retract or dismiss any such appeal, opposition or challenge heretofore made or asserted with any governmental authority for the purpose of preventing, delaying or revoking the issuance of any such permit, license or approval, including, without limitation:

A. A request for administrative challenge to the validity of an amendment to the Government Center Urban Renewal Plan adopted by the Boston Redevelopment Authority on November 10, 1983, as expressed in a letter dated December 21, 1983 to Amy S.

Anthony, Secretary of the Executive Office of Communities and Development, from Robert J. Muldoon, Jr., Esquire; and

B. A request for withdrawal of a determination made by James S. Hoyte, Secretary of the Executive Office of Environmental Affairs, as expressed in a letter dated December 21, 1983 to said Secretary from Robert J. Muldoon, Jr., Esquire.

Without limiting the generality of the foregoing, the parties shall use their best efforts to cause the termination of any inquiry made by the Executive Office of Environmental Affairs or the Executive Office of Communities and Development in response to the foregoing communications to be terminated in a manner favorable to the ability of the Trustees to carry out construction of such addition without need for further submissions to or review by either such executive office.

10. This Agreement, together with the stipulation of dismissal and mutual releases by and between the parties hereto referred to in Paragraph 9 hereof, constitutes the entire agreement between the parties and is entered into freely and voluntarily by them after and upon advice of counsel who concur that the agreement herein together with such stipulation and releases is the complete and entire agreement. All executed copies are duplicate originals and are equally admissible in evidence.

11. Any notice required or desired to be given pursuant to this Agreement shall be in writing and shall be given by hand delivery or by depositing the same in the United States Mail, postage prepaid, certified or registered mail, return receipt requested, to the addresses of the respective parties set forth below:

If to the Trustees:

Richard H. Rubin, Trustee
Government Center Garage Realty Trust
c/o Richard H. Rubin Companies
11140 Rockville Pike
Rockville, Maryland 20852

If to the Limited Partnership:

S. Lawrence Schlager
25 New Chardon Street
Boston, Massachusetts 02114

If to lessee-operator:

Kinney System of Sudbury St., Inc.
60 Madison Avenue
New York, New York 10010

Any of the foregoing persons may change their respective addresses by giving written notice to the other in accordance with the provisions of this paragraph.

12. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts and shall be binding upon and extend to the benefit of the parties, their heirs, successors and assigns. This Agreement may only be amended by a writing executed by the parties hereto, but the rights of the Limited Partnership may be amended by a writing joined in by the Trustees and it. No

such amendment shall be effective unless assented to by the lessee-operator.

IN WITNESS WHEREOF, the parties have executed these presents on the date first above written.

_____
Richard H. Rubin as Trustee of Government Center Garage Realty Trust and not individually

Witness:

_____
Myrna Putziger as Trustee of Government Center Garage Realty Trust and not individually

_____
Counsel to Government Center Garage Realty Trust

GOVERNMENT CENTER DEVELOPERS COMPANY

By:_____
S. Lawrence Schlager
General Partner

Witness:

_____
Counsel to Government Center Development Company

By:_____
S. Lawrence Schlger as Trustee of the Samuel W. Poorvu Family Trust and not individually

Witness:

Counsel to said Trustees

Judith P. Schlager as Trustee
of the Samuel Poorvu Family
Trust and not individually

Merton N. Alperin as Trustee
of the Samuel Poorvu Family
Trust and not individually

S. Lawrence Schlager as Trustee
of the Beatrice Poorvu Trust
and not individually

Witness:

Counsel to said Trustees

Judith P. Schlager as Trustee
of the Beatrice Poorvu Trust
and not individually

Witness:

Counsel to 25 New Chardon
Street Limited Partnership

25 NEW CHARDON STREET
LIMITED PARTNERSHIP

S. Lawrence Schlager
General partner

Witness:

Counsel to S. Lawrence
Schlager

S. Lawrence Schlager

Witness:

_____ _____

Counsel to Judith P. Schlager

Judith P. Schlager

Assented to:

Kinney System of Sudbury St., Inc.

By:_____
hereunto duly authorized

The Boston Redevelopment Authority, for itself and on behalf of the City of Boston acting by and through its Public Facilities Commission pursuant to Section 906 of the Sale and Construction Agreement, hereby consents to and approves the terms and provisions of the foregoing Agreement.

Boston Redevelopment Authority

By:_____
Stephen F. Coyle, Director

Approved as to form:

_____
General Counsel

Dated:_____

OPERATIONS, MAINTENANCE AND SECURITY PLAN

GOVERNMENT CENTER GARAGE

Interim Plan

This Operations, Maintenance and Security Plan (the "Plan") is agreed upon among the City of Boston acting by and through its Public Facilities Commission (the "City"), The Boston Redevelopment Authority (the "Authority") and Myrna Putziger and Richard H. Rubin as they are Trustees of the Government Center Garage Realty Trust (the "Developer") pursuant to and in accordance with a Sale and Construction Agreement dated December 21, 1983 among the City, the Authority and the Developer (the "Sale and Construction Agreement") which is recorded with Suffolk Registry of Deeds at Book 10700, Page 87. Said Sale and Construction Agreement is hereby amended by incorporating this Plan as a part thereof. Capitalized terms used herein without definition shall have the meanings ascribed in the Sale and Construction Agreement.

This Plan is an Interim Plan to be further supplemented by the addition hereto, by amendment, of additional material relating to operations, maintenance and security.

Based upon the design development for the Improvements approved in accordance with the Sale and Construction Agreement, the Property will contain 2,098 parking spaces for a standard-sized automobiles to be devoted to public parking use. Section 301 of the Sale and Construction Agreement required the Developer to "devote the Property to public parking use with not less than 1,865 parking spaces for standard-sized automobiles, in accordance with an Operation, Maintenance and Security Plan to be agreed upon by the parties and recorded as an amendment hereto ...." For purposes of the Sale and Construction Agreement, it is necessary to reaffirm that certain spaces rented to persons outside of the Improvements may still properly be classified as public parking spaces.

The Developer may enter into formal or informal agreements, for a short or long term, pursuant to which Developer or lessee-operater assures the availability of up to 215 parking spaces, as hereinafter specified, to an identified user of one or more parking spaces in the Property, including agreements with:

1. Tenants of, employees in, or visitors to the building known as the John F. Kennedy Office Building, Boston, Massachusetts, which is currently owned by the United States of America acting through its General Services Administration, or any designee of the owner thereof from time to time, not to exceed 200 spaces, of which fifty (50) spaces may be specifically assured;

2. Tenants of, employees of, business invitees of the 25 New Chardon Street Limited Partnership, from time to time, of said Limited Partnership, not to exceed 15;

In addition, and consistent with the classification of parking spaces of the Air Pollution Control Commission, 208 spaces may be utilized by tenants of, employees in, and visitors to the Property, including the office and retail space, provided such number does not exceed 208 spaces and provided that the Developer has obtained an exemption from the parking freeze from the Boston Air Pollution Control Commission for such parking spaces.

Further for the purpose of the Sale and Construction Agreement, a parking space shall be considered for "standard-sized automobiles" if the stall dimensions thereof shall be consistent with the parking spaces stall size recommended from time to time for low turnover usage by a recognized traffic industry authority such as the Institute of Traffic Engineers or the Urban Land Institute, provided that such standard has been accepted in writing by the Director of the Authority.

In witness whereof, the parties hereto have caused this Plan to be signed, sealed and delivered this day of , 1987 by their duly authorized representatives, respectively.

Approved as to form:

CITY OF BOSTON acting by and through its PUBLIC FACILITIES COMMISSION

_____
Chief General Counsel
Boston Development Authority

By:_____
Director
Public Facilities Commission

[signatures continued on following page]

BOSTON REDEVELOPMENT AUTHORITY

By:_____
Stephen Coyle, Director

GOVERNMENT CENTER GARAGE REALTY TRUST

By:_____
Richard H. Rubin, Trustee
as aforesaid and not
individually, without
personal liability

By:_____
Myrna Putziger, Trustee
as aforesaid and not
individually, without
personal liability

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk , 1987

Then personally appeared the above-named _____, Director of the Public Facilities Commission, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the City of Boston, before me.

_____
NOTARY PUBLIC

My Commission expires:_____

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk , 1987

Then personally appeared the above-named Stephen F. Coyle, Director of the Boston Redevelopment Authority, who executed the foregoing instrument on behalf of the Boston Redevelopment Authority and acknowledged the same to be the free act and deed of said Authority, before me.

_____
NOTARY PUBLIC

My Commission expires:_____

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk , 1987

Then personally appeared the above-named Myrna Putziger and Richard H. Rubin as they are Trustees of the Government Center Garage Realty Trust, and acknowledged the foregoing instrument to be their free act and deed, as Trustees of the Government Center Garage Realty Trust, before me.

_____
NOTARY PUBLIC

My Commission expires:_____

MEMORANDUM DECEMBER 17, 1987

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: WILLIAM WHITNEY, ACTING DIRECTOR FOR DEVELOPMENT AND URBAN DESIGN
PAUL L. MCCANN, EXECUTIVE ASSISTANT TO THE DIRECTOR

SUBJECT: GOVERNMENT CENTER GARAGE, EXECUTION OF AMENDMENT TO OPERATIONS, MAINTENANCE, AND SECURITY PLAN AS PROVIDED IN THE AUTHORITY APPROVED DISPOSITION AGREEMENT

SUMMARY: This memorandum requests the Authority to authorize the execution of an Amendment to the Operations, Maintenance, and Security Plan for the Government Center Garage. Specifically the amendment will provide for access to 15 unassigned parking spaces in connection with the removal of an impediment to the Government Center Garage Project's commencement and progress. The action requested here is in the same form as that granted by the Authority in connection with an agreement with the General Services Administration where the accessibility of 200 unassigned spaces was provided.

As you are aware, in connection with the Government Center Garage Project, the Authority authorized the execution of a Sale and Construction Agreement among the City of Boston, the Authority, and the purchaser of the subject garage, Trustees of the Government Center Garage Realty Trust. That agreement and deed was recorded in December of 1983. That agreement, as approved by the Authority, contemplated the future attachment of an Operations, Maintenance, and Security Plan concerning the Garage. During the time of the sale, certain litigation was initiated around the Government Center Garage. The real issue in all of the lawsuits surrounding the Garage's construction was, quite clearly, access to unassigned parking spaces at market rates in the Garage. On or about April 4, 1985, the Authority voted to authorize the Director to execute and deliver on behalf of the Authority, in its own right and as delegatee of the City of Boston, an Operations, Maintenance, and Security Plan for the Government Center Garage, substantially in a form presented to it which provided for, among other things, the provision to the General Services Administration of 200 unassigned parking spaces at market rate, the availability of which was assured by computer monitoring of the number of cars entering and exiting the Garage. It is now proposed that the last remaining lawsuit be resolved, and the final impediment to the

project's progress be removed. This will occur if access to 15 unassigned parking spaces at market rates are assured to certain property owners. However, the parties wish, nevertheless, to be assured that the 1,865 public parking spaces, required in the original disposition agreement, are not adversely affected. The attached Amendment to the Operations, Maintenance, and Security Plan reaffirms that all unassigned monthly spaces to which access was permitted by the GSA arrangement, and the currently proposed arrangement as they are for tenants outside the present building, may still be properly classified as within the meaning "public parking spaces." This interpretation is consistent with the Air Pollution Control Commission's definition of "public parking spaces."

The only change to be effected by this Amendment to the Operations, Maintenance, and Security Plan is to increase from 200 to 215 the number of spaces, with respect to which the developer may enter into formal or informal agreements for the availability of parking spaces. These amount to 200, in the first instance, for tenants of, employees in, or visitors to the John F. Kennedy Federal Office Building, and 15 for tenants of, employees in, and visitors to the 25 New Chardon Street building.

We, therefore, recommend the following:

VOTED: That the Director be, and hereby is, authorized to execute and deliver on behalf of the Authority, in its own right and as delegatee of the City of Boston, acting by and through its Public Facilities Commission (the "City"), an Operations, Maintenance, and Security Plan for the Government Center Garage substantially in the form presented to this meeting with such changes therein as the Director deems appropriate; such plan to become a part, by Amendment, of the Sale and Construction Agreement, dated December 21, 1983, among the Authority, the City and the Trustees of the Government Center Garage Realty Trust; and further

VOTED: That the Director be, and hereby is, authorized to execute and deliver on behalf of the Authority and the Public Facilities Commission, in each case as a consenting party, a Settlement Agreement and Parking Space Rental Agreement between the Trustees of the Government Center Garage Realty Trust and the Government Center Developers Company, the Trustees of the Samuel W. Poorvu Family Trust, and the 25 New Charbon Street Limited Partnership, substantially in the form presented to this meeting with such changes therein as the Director deems appropriate.